

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Appl. No. : 10/526,081
Applicant(s): Markus Lazeroms, et al.
Filed: February 28, 2005
TC/A.U.: 2800/2863
Examiner: Xiuqin Sun
Atty. Docket: NL 020786
Confirmation No.: 8321
Title: SYSTEM FOR IDENTIFYING A PERSON

APPEAL BRIEF

Honorable Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In connection with the Notice of Appeal dated December 17, 2007, Applicants provide the following Appeal Brief in the above-captioned application.

TABLE OF CASES

1. **W.L. Gore & Associates, Inc. v. Garlock, Inc.**, 220 USPQ 303 (CAFC 1983).
2. **In re Paulsen**, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994)
3. **In re Spada**, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990).
4. **Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.**, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992).
5. **Scripps Clinic & Res. Found. v. Genentech, Inc.**, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

1. Real Party in Interest

The real party in interest as assignee of the entire right and title to the invention described in the present application is Koninklijke Philips N.V. having a principle place of business at Groenewoudseweg 2, Eindhoven, The Netherlands.

2. Related Appeals and Interferences

There are no known related appeals or interferences at this time.

3. Status of the Claims

Claims 1-16 are pending in the application. No claims are cancelled. While in no way conceding the propriety of the restriction, Applicants do not preset claims 10-14 for consideration at this time, and these claims are constructively withdrawn. Claim 15 is objected to as being duplicative of claim 8. Applicants withdraw claim 15 from consideration at this time. Thus, claims 1-9 and 16 are the subject of the present Appeal. Claims 1-9 and 16 have been finally rejected. Rejected claims 1-9 and 16 are duplicated in the Appendix.

4. Status of Amendments

A final Office Action on the merits was mailed on July 30, 2007. A Notice of Appeal was filed on December 17, 2007.

5. Summary of the Claimed Subject Matter¹

In accordance with a representative embodiment, a system for identifying a person (See for example Fig. 1) includes means for detecting a distribution of pressures (40, Fig. 2), exerted by at least one foot (20) of the person on a surface. The system also includes means for storing data of a number of persons (51, Fig. 2). The data comprises a detected pressure distribution pattern and an associated person identification code (X,

¹ In the description to follow, citations to various reference numerals, drawings and corresponding text in the specification are provided solely to comply with Patent Office Rules. It is emphasized that these reference numerals, drawings and text are representative in nature, and in not any way limiting of the true scope of the claims. It would therefore be improper to import any meaning into any of the claims simply on the basis of illustrative language that is provided here only under obligation to satisfy Patent Office rules for maintaining an Appeal.

Fig. 1). The system also includes means for comparing (52, Fig. 2) a detected pressure distribution pattern with stored pressure distribution patterns until a match of pressure distribution patterns is found. (Kindly refer to claim 1; page 3, line 1-page 4, line 34 of the filed application).

In accordance with another representative embodiment, a method of identifying a person includes detecting a distribution of pressures (Fig.3) exerted by at least one foot (2) of the person on a surface. The method also includes storing data of a number of persons (storage medium 51, Fig. 2). The data comprises a detected pressure distribution pattern and an associated person identification code (X, Fig. 1). The method also includes comparing the detected pressure distribution pattern (Fig. 3) with stored pressure distribution patterns, until a match of pressure distribution patterns is found (Fig.3). (Kindly refer to claim 8; page 3, line 1- page 4, line 34 of the filed application).

6. Grounds of Rejection to be Reviewed on Appeal

The issues in the present matter are whether:

- I. Claims 1-3,5-6 and 8 are properly rejected under 35 U.S.C. § 102(b) in view of *Speeter* (US Patent 5,479,528); and
- II. Claims 4, 7 and 9 are properly rejected under 35 U.S.C. § 103(a) in view of *Speeter* and *Wymore* (US Patent 6,515,586).

7. Argument

In this portion of the Appeal Brief, arguments are provided. Notably, wherever applicable Applicants maintain previous arguments for patentability provided in response to Office Actions.

I. Rejection in view of *Speeter*.

Applicants have reviewed the rejection of claims 1-3, 5-6 and 8 and respectfully submit that a *prima facie* case of anticipation has not been established. Applicants note that the present rebuttal is in addition to the arguments in favor of patentability provided

in the Responses under Rules 111 and 116. The substance of the previous Responses is maintained.

At the outset, Applicants rely at least on the following standards with regard to proper rejections under 35 U.S.C. § 102. Notably, a proper rejection of a claim under 35 U.S.C. § 102 requires that a single prior art reference disclose each element of the claim. *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983). Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference. *See, e.g., In re Paulsen*, 30 F.3d 1475, 31 USPQ2d 1671 (Fed. Cir. 1994); *In re Spada*, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Cir. 1990).

Alternatively, anticipation requires that each and every element of the claimed invention be embodied in a single prior art device or practice. *See, e.g., Minnesota Min. & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). For anticipation, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See, e.g., Scripps Clinic & Res. Found. v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991).

1. Claims 1 and 8

Claim 1 is drawn to a system for identifying a person, and features:

"...means for detecting a distribution of pressures, exerted by at least one foot of the person on a surface, means for storing data of a number of persons, said data comprising a detected pressure distribution pattern and an associated person identification code, and means for comparing a detected pressure distribution pattern with stored pressure distribution patterns until a match of pressure distribution patterns is found."

Claim 8, which is drawn to a method of identifying a person, includes similar features to claim 1.

The non-final Office Action directs Applicants to the Abstract, column 3, lines 1-3 and column 9, lines 24-32 of *Speeter* for the alleged disclosure of the noted features of claims 1 and 8. Applicants respectfully disagree.

The reference to *Speeter* discloses force application to a tactile array (touch array) that produces electrical signals. In connection with Fig. 4, the reference discloses piezoresistive and capacitive tactile (touch) arrays. These relate to force calculations on intelligent work surfaces. There is no description of the detecting *pressure distributions* and comparing these *pressure distributions* with stored *pressure distributions*. In connection with Figs. 9, 10, the reference describes the coordinates of forces associated with features of a hand (e.g., finger clusters). The location of the forces is then used to identify the person based on six values that form a six-tuple that comprises the distances from the bottom-center point 124 to the furthest pixel in each fingertip. There is no description of a pressure distributions as specifically claimed. (Kindly refer to Figs. 9 and 10 and column 7, line 57 through column 8, line 42 of *Speeter* for further details in support of Applicants' assertions.)

Accordingly, the reference to *Speeter* fails to disclose at least one feature of each of claims 1, 8, 10 and 15; and one of ordinary skill in the art would recognize at least one difference between the features of the claims and the reference disclosure.

In the final Office Action, the Examiner alleges that giving the claims their broadest reasonable interpretation, the Examiner "...holds the position that all subject matters [sic] recited in claims 1-9 have been taught or suggested or disclosed by the cited prior art references either individually or in combination..." The Examiner then deems that the disclosed "force-image sensor of an individual's handprint or footprint" taught by *Speeter* is equivalent to the distribution of pressure as recited in the claims at issue.

The Examiner correctly notes that pressure is the force per unit area. The reference to *Speeter* relies on a force applied, such as a force applied to a tactile array. *Speeter* seemingly identifies the locations of forces presented by a hand, and based on this a person's identity can be garnered. *Speeter* does not determine pressure distributions. By contrast, the present claims feature means to detecting a distribution of

forces per unit area. While a person standing on a force-measuring scale will record merely a weight, the present claims will provide the distribution of the forces per unit area across the contact of the foot of the person. Stated somewhat differently, *Speeter* discloses a coordinate location measure of the locations of fingers and the palm, whereas the present claims are directed to the distribution of pressures created by the surface where the foot, for example. As will be appreciated, different people will present different pressure distributions, while having the same weight. Again, *Speeter* identifies the locations of forces presented by a hand, and based on this a person's identity can be garnered. *Speeter* does not determine pressure distributions.

Finally, Applicants previously traversed the claim of inherency as lacking evidence. This demur may be found in the Response under Rule 116, beginning at page 11. No concrete evidence of in support of this position has been provided in the Advisory Action. Therefore, a proper showing of inherency has yet to be provided.

Because the reference to *Speeter* fails to disclose at least one feature of the independent claims, a prima facie case of anticipation has not been established. Therefore, claims 1 and are patentable over the applied art. Moreover, claims 2-7, 9 and 16, which depend from claims 1 and 8, respectively, are patentable as a matter of law.

II. Rejections in view of *Speeter* and *Wymore*.

Applicants have considered the rejection of claims 4, 7 and 9 in view of *Speeter* and *Wymore*. While Applicants by no means concede the propriety of the rejection, Applicants respectfully submit that the rejection is moot and that claims 4, 7 and 9 are patentable over the applied art for at least the same reasons as their respective independent claims.

Respectfully submitted on behalf of:
Phillips Electronics North America Corp.

s/William S. Francos/

by: William S. Francos (Reg. No. 38,456)

Date: March 17, 2008

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Appendix
Claims on Appeal

Claims:

1. (Previously Presented) System for identifying a person, comprising:
means for detecting a distribution of pressures, exerted by at least one foot of the person on a surface, means for storing data of a number of persons, said data comprising a detected pressure distribution pattern and an associated person identification code, and means for comparing a detected pressure distribution pattern with stored pressure distribution patterns until a match of pressure distribution patterns is found.
2. (Previously Presented) System according to claim 1, wherein the pressure distribution detecting means comprise a matrix sensor.
3. (Previously Presented) System according to claim 1 wherein said surface comprises a platform for receiving at least one foot of the person, the pressure distribution detecting means comprising a layer implemented in the platform .
4. (Previously Presented) System according to claim 1, wherein the pressure distribution detecting means comprise a matrix of electrical contacts, with a rubber having a pressure-dependent conductivity being placed between these contacts.
5. (Previously Presented) System according to claim 1, wherein the means for storing detected pressure distribution patterns comprise a processor having a storage medium.
6. (Previously Presented) System according to claim 5, wherein the processor further comprises a comparator for comparing a detected pressure distribution pattern (A) with the stored pressure distribution patterns (A,B,C).
7. (Previously Presented) System according to claim 1, wherein it comprises a system for

identifying a user of a weighing device.

8. (Previously Presented) A method of identifying a person, wherein said method comprises the steps of: detecting a distribution of pressures, exerted by at least one foot of the person on a surface, storing data of a number of persons, said data comprising a detected pressure distribution pattern and an associated person identification code, and comparing a detected pressure distribution pattern with stored pressure distribution patterns, until a match of pressure distribution patterns is found.

9. (Previously Presented) A method as claimed in claim 8, wherein said method is a method of identifying a user of a weighing device.

16. (Previously Presented) A method as claimed in claim 8, wherein the method further comprises identifying a user of a weighing device.

Appendix

Evidence (None)

Appendix

Related Proceedings (None)